

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

October 10, 2017 at 10:00 a.m.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

Unless otherwise stated, the court will prepare a civil minute order on each matter listed. If the moving party wants a more specific order, it should submit a proposed amended order to the court. In the event a party wishes to submit such an Order it needs to be titled 'Amended Civil Minute Order.'

If the moving party has received a response or is aware of any reason, such as a settlement, that a response may not have been filed, the moving party must contact Nancy Williams, the Courtroom Deputy, at (916) 930-4580 at least one hour prior to the scheduled hearing.

2. The court will not continue any short cause evidentiary hearings scheduled below.

3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.

4. If no disposition is set forth below, the matter will be heard as scheduled.

1.	17-20401-D-13	ROBERTO SAMPERA	MOTION TO MODIFY PLAN
	JCK-4		8-24-17 [40]

Final ruling:

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

2. 17-22407-D-13 SERGIO ZAMORA
LR-1

MOTION TO CONFIRM PLAN
8-27-17 [50]

Final ruling:

This is the debtor's motion to confirm what appears to be an original chapter 13 plan. The motion will be denied for the following reasons: (1) the moving party failed to serve three of the four creditors filing claims in this case at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g); (2) the moving party failed to serve either of the parties filing requests for special notice at their designated addresses, as required by the same rule; (3) the moving party failed to serve the U.S. Dept. of Education at its address on the Roster of Governmental Agencies, as required by LBR 2002-1; (4) the proof of service does not sufficiently set forth the manner of service; and (5) the proof of service is not signed under oath, as required by 28 U.S.C. § 1746.

As a result of these service defects, the motion will be denied and the court need not consider the issues raised by the trustee at this time. The motion will be denied by minute order. No appearance is necessary.

3. 17-21512-D-13 MARIANNE DANIA
MJD-3

OBJECTION TO CLAIM OF LVNV
FUNDING, LLC, CLAIM NUMBER 6-1
8-22-17 [43]

Final ruling:

The matter is resolved without oral argument. The court's record indicates that no timely opposition/response to the objection has been filed and the objection is supported by the record. Accordingly, the court will issue a minute order sustaining the debtor's objection to claim. No appearance is necessary.

4. 17-24814-D-13 GUADALUPE ESQUIVEL
AP-1

OBJECTION TO CONFIRMATION OF
PLAN BY PNC BANK, N.A.
9-13-17 [24]

Final ruling:

As the court has sustained the trustee's objection to plan confirmation (see item no. 5), the court will issue a minute order overruling PNC Bank, N.A.'s objection as moot. No appearance is necessary.

5. 17-24814-D-13 GUADALUPE ESQUIVEL
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
9-11-17 [21]

Final ruling:

The debtor has filed a statement of non-opposition to this objection indicating she intends to file an amended plan. As such, the court will issue a minute order sustaining the trustee's objection. No appearance is necessary.

6. 17-21917-D-13 ANTONIO/FIDELIA JACQUEZ MOTION TO CONFIRM PLAN
TOG-1 8-28-17 [43]

Final ruling:

This is the debtors' motion to confirm a first amended chapter 13 plan. On September 22, 2017, the debtors filed a second amended plan and a motion to confirm it, set for hearing on November 21, 2017. As a result of the filing of the second amended plan, this motion is moot. The motion will be denied as moot by minute order.¹ No appearance is necessary.

1 The debtors' purported withdrawal of the motion, filed September 26, 2017, was ineffective because the trustee had already filed opposition to the motion. See Fed. R. Civ. P. 41(a)(1) and (2), incorporated herein by Fed. R. Bankr. P. 7041 and 9014(c).

7. 15-29725-D-13 TYESHA LINDSEY MOTION TO MODIFY PLAN
TBK-3 8-31-17 [65]

8. 16-21825-D-13 JUAN/NADINE MORGA MOTION TO MODIFY PLAN
CLH-3 8-29-17 [73]

Final ruling:

This is the debtors' motion to confirm a first amended chapter 13 plan. On September 27, 2017, the debtors filed a second amended plan and a motion to confirm it, set for hearing on November 7, 2017. As a result of the filing of the second amended plan, this motion is moot. The motion will be denied as moot by minute order. No appearance is necessary.

9. 16-21825-D-13 JUAN/NADINE MORGA MOTION TO SELL FREE AND CLEAR
CLH-4 OF LIENS AND/OR MOTION TO PAY
9-14-17 [82]

10. 17-25225-D-13 CHRIS NGUYEN AND AMANDA MOTION TO AVOID LIEN OF
MC-1 CHANG DISCOVER BANK
9-12-17 [22]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The court finds the judicial lien described in the motion impairs an exemption to which the debtors are entitled. As a result, the court will grant the debtors' motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

11. 17-24626-D-13 VICTOR/GLORIA LUERA OBJECTION TO CONFIRMATION OF
EAT-1 PLAN BY WELLS FARGO BANK, N.A.
9-13-17 [37]

12. 12-33932-D-13 PATRICIA FLYNN MOTION TO MODIFY PLAN
JCK-6 8-24-17 [61]

Final ruling:

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

13. 17-23238-D-13 LAURIE CROSBY-WILSON MOTION TO CONFIRM PLAN
JCK-6 8-19-17 [69]

Final ruling:

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

14.	15-25943-D-13	MICHAEL/PHYLLIS MIRANDA	MOTION TO MODIFY PLAN
	PK-6		9-5-17 [58]

15.	15-25943-D-13	MICHAEL/PHYLLIS MIRANDA	MOTION TO APPROVE LOAN
	PK-7		MODIFICATION
			9-5-17 [63]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion to approve loan modification is supported by the record. As such the court will grant the motion by minute order. No appearance is necessary.

16.	15-25770-D-13	ERIC BARBARY AND MARIAN	MOTION TO MODIFY PLAN
	PGM-2	CORK-BARBARY	8-24-17 [77]

17.	16-26671-D-13	JOHN/HASINA HELMANDI	MOTION TO CONFIRM PLAN
	RM-8		8-15-17 [169]

18. 17-25772-D-13 MIGUEL JUNIZ AND CELINA MOTION TO VALUE COLLATERAL OF
TOG-1 AGUINIGA WHEELS FINANCIAL GROUP, LLC
9-2-17 [8]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. As such the court will grant the motion and, for purposes of this motion only, sets the creditor's secured claim in the amount set forth in the motion. Moving party is to submit an order which provides that the creditor's secured claim is in the amount set forth in the motion. No further relief is being afforded. No appearance is necessary.

19. 17-25374-D-13 RICKY CLEARY AND KIM MOTION TO VALUE COLLATERAL OF
RWF-1 PHUONG NGUYEN-CLEARY UNION BANK & TRUST
9-5-17 [11]

Final ruling:

This is the debtors' motion to value collateral of Union Bank & Trust (the "Bank"). The motion will be denied because the moving parties failed to serve the Bank in strict compliance with Fed. R. Bankr. P. 7004(h), as required by Fed. R. Bankr. P. 9014(b). The moving parties served the Bank at three addresses to the attention of the named president and CEO. However, there is no evidence service was made by certified mail, whereas service on an FDIC-insured institution, such as the Bank, must be by certified mail. Rule 7004(h).

As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.

20. 17-23075-D-13 LORA ROBERTSON AND DONNIE MOTION TO CONFIRM PLAN
FF-4 NAVIDAD 8-22-17 [47]

Final ruling:

This case was dismissed on September 28, 2017. As a result the motion will be denied by minute order as moot. No appearance is necessary.

21. 17-24578-D-13 KATHY FEENEY OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
9-11-17 [29]

22. 17-24680-D-7 GURJIT SIDHU OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
9-11-17 [23]

Final ruling:

This case was converted to a Chapter 7 on September 19, 2017. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

23. 17-23786-D-13 KEVIN LAGORIO AND MISTII MOTION TO CONFIRM PLAN
MJH-3 ROCHA-LAGORIO 8-30-17 [42]

Final ruling:

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied because the moving parties failed to serve the U.S. Dept. of Education, which is scheduled as being owed \$140,000, at its address on the Roster of Governmental Agencies, as required by LBR 2002-1.

As a result of this service defect, the motion will be denied and the court need not consider the issue raised by the trustee at this time. The motion will be denied by minute order. No appearance is necessary.

24. 17-22991-D-13 FILIBERTO/ALICIA MOTION TO CONFIRM PLAN
TOG-1 CONTRERAS 8-22-17 [32]

Final ruling:

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

25. 17-20829-D-13 ALBERTO DELAROSA AND MOTION TO CONFIRM PLAN
CAS-1 ESPERANZA LOREDO 9-15-17 [123]

Tentative ruling:

This is the motion of the debtor, Albert D. De La Rosa, to confirm a fourth amended chapter 13 plan. The motion will be denied for the following reasons. First, the motion is brought by the debtor in propria persona, whereas the debtor is represented by counsel in this case, Charles Stoner, and counsel has not moved to withdraw as counsel of record. An individual may be represented by counsel or may represent himself or herself, but is not free to represent himself or herself without counsel obtaining court approval to withdraw as counsel of record. Second, the moving party purports to seek confirmation of a "Fourth Amended Chapter 13 Plan . . . filed on April 5, 2017," but there was no plan filed on that date and the most recent plan on file is a third amended plan filed April 11, 2017. Third, the moving party gave only 25 days' notice of the hearing, rather than 42 days', as required by LBR 3015-1(d)(1) and the rules cited therein. Fourth, the "list of creditors

attached" referred to in the proof of service is not attached; thus, there is no evidence of service on any creditors, only the United States Trustee and the chapter 13 trustee.

For the reasons stated, the motion will be denied. The court will hear the matter.

26. 17-25247-D-13 DELJEAN PEREZ
RCO-1

OBJECTION TO CONFIRMATION OF
PLAN BY FREEDOM MORTGAGE
CORPORATION
9-25-17 [15]

27. 16-26469-D-13 LONEY/MARY TURPIN
TAG-9

CONTINUED MOTION TO CONFIRM
PLAN
6-21-17 [115]